

**Board Meeting Minutes
July 25 & 26, 2002**

**Board for Professional Engineers and Land Surveyors
Embassy Suites, Arcadia
211 East Huntington Drive
Arcadia, California 91006
(626) 445-8525**

Thursday, July 25, 2002

Board Members Present: Millicent Safran (President), Gregg Brandow (Vice-President), David Chen, James Foley, David Fruchtman, Andrew Hopwood, Michael Welch, and Dale Wilson.

Board Members Absent: Arthur Duffy, Kathryn Hoffman, and Stephen Lazarian

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Nancy Eissler (Attorney General Liaison Analyst), Cindy Morris-Hoppe (Executive Analyst), Debbie Thompson (Budget Analyst).

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order at 1:35 p.m. Roll call was taken, and a quorum was established.

2. Public Comment

Mr. Weatherby spoke regarding the Code of Professional Conduct.

Mr. Greenlaw spoke regarding the Title Act Study of 20 years ago.

3. Closed Session

The Board went into closed session at 1:45 p.m.

4. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the indicated examinations.

Ms. Christenson also reported that the Board approved the successful and unsuccessful Structural appeal results from the October 2001 examination.

Ms. Christenson reported that the Board adopted the following passing score for the April 2002 Land Surveyor examination:

- 511 out of a possible 935

Ms. Christenson reported that the Board discussed pending litigation as noticed.

Ms. Christenson reported that the Board adopted the Stipulation regarding Ildefonso P. Chin, adopted the Stipulation regarding Earl McKinney, and adopted the Default Decision regarding James Franklyn Nims.

5a. Approval of the Minutes of the June 13 & 14, 2002, Board Meeting.

MOTION: Mr. Hopwood/Dr. Chen moved to approve the minutes of the June 13 & 14, 2002, Board Meeting.

VOTE: 8-0, motion carried.

5b. Approval of Candidates for Certification/Licensure. (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Mr. Hopwood/Dr. Chen moved to approve candidates for licensure and certification based on examination results, including successful appeal results and take home examination results, approved in closed session.

VOTE: 8-0, motion carried.

6. Approval of Delinquent Reinstatements.

MOTION: Mr. Hopwood/Dr. Chen moved to approve the Delinquent Reinstatements as follows:

Electrical

1. Kevin J. Dasso

Reinstate applicant's electrical license once he/she takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

Mechanical

1. Mark J. Daley

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

2. Reza C. Kabir

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

VOTE: 8-0, motion carried.

7. Comity and Temporary Authorization Applications.

MOTION: Mr. Hopwood/Dr. Chen moved to approve the Comity applicants listed on Pages 33 & 34 of the Board agenda for licensure.

VOTE: 8-0, motion carried.

8. Award of PLS RFP# 7080-01-02 (Possible Action)

MOTION: Mr. Hopwood/Mr. Welch moved to award PLS RFP# 7080-01-02 to PMES.

VOTE: 8-0, motion carried.

9. Examination/Qualifications

a. Amend Board Rule 424.5 Delinquent Licensees (Possible Action)

Ms. Christenson reported that Board Rule 424.5 has been modified to require the taking and passing of the appropriate examinations for individuals who seek reinstatement of their license after six years since it expired.

MOTION: Mr. Hopwood/Mr. Foley moved to direct staff to commence with the rulemaking process to amend Board Rule 424.5.

VOTE: 8-0, motion carried.

b. April 2002 First Time v. Repeat Test Takers Statistics (Status)

President Safran has requested that the professional societies be provided with this information and that this information be included on the

Board's website, with a link to the corresponding national information available on the NCEES Website.

10. Administrative

a. Fund Condition (Possible Action)

Ms. Thompson reported on the changes to the fund condition dated July 2, 2002. The BCPs for FY 2003/04 amounting to \$221,000 were added and revenue projections for FY 2001/02 were increased by \$67,000. Even with the additional revenue increase, a deficit is still projected in FY 2003/04 if the proposed regulatory fee increases are not put in place for FY 2002/03.

b. FY 2001/02 Budget (Possible Action)

Ms. Thompson reported that based upon the May 31, 2002 expenditure reports, the projected savings after budgeted expenditures is \$19,459. Increased projections for travel, exam site rental and Attorney General costs were covered by savings that resulted from not producing the Board's Enforcement Bulletins in FY 2001/02 because no staff was available due to the hiring freeze.

c. FY 2002/03 Budget (Possible Action)

Ms. Thompson reviewed projected expenditures for FY 2002/03. The Board will spend approximately \$12,000 less in FY 2002/03 than in FY 2001/02. These projections do not include the Statewide Position and Dollar Reduction Plan cuts that will eliminate the Board's \$296,000 in funding for six vacant positions.

d. Statewide Position and Dollar Reduction Plan (Possible Action)

Ms. Thompson reported that on July 1, 2002, a Budget Letter directive was issued to all State agencies that instructs each Board to submit a rank listing of all vacant positions as of June 30, 2002 and to identify the funding associated with each of the positions for the purpose of abolishing the positions. The goal of the directive is to abolish 6,000 vacant positions from all state agencies to remove \$300 million in dollars from the budget. On August 1, 2002 the State and Consumer Services Agency is to submit this information to Department of Finance to review. On or before October 1, 2002, the Director of Finance will transmit to the Joint Legislative Budget Committee this list for final legislative approval. This directive is pursuant to language included in the proposed Budget Act for FY 2002/03. The funding identified by the Board pursuant to this directive will cut \$296,000 from the Board's FY 2002/03 budget. The funding cuts will be retroactive to July 1, 2002. This will require Exam Program and/or Enforcement Program cuts.

e. Fiscal Year 2003/04 Budget Change Proposals (Possible Action)

Ms. Thompson reported that the funding amount requested on the BCPs has been revised. DCA has not yet reviewed the BCPs and/or submitted any requests for changes. The BCPs are due to be submitted to Agency in mid-August.

1. Exam Population: \$ 163,000
2. Mechanical Pencils \$ 19,000
3. Building Lease Renewal \$ 10,000

f. Administration of NCEES PLS exam twice a year (Possible Action)

Ms. Thompson reviewed the costs associated with adding a NCEES Land Surveyor exam each FY, beginning with October 2003. The total cost of adding this exam (\$59,000) would be supported by the additional revenue generated (\$108,000). The additional exam, however, cannot be given unless the Board prepares a BCP to add \$59,000 to the Board's FY 2003/04 budget.

MOTION: Mr. Hopwood/Dr. Chen moved to approved adding the additional BCP to obtain the funding for an additional NCEES Land Surveyor exam each FY.

VOTE: 8-0, motion carried.

Vice-President Brandow requested that Ms. Thompson prepare an analysis of the costs to add a NCEES Structural exam in April 2004 for FY 2003/04.

11. Legislative

a. Discussion of Legislation for 2002, including but not limited to: AB 269 (support), AB 2283 (Watch), SB 1244 (support), SB 1347 (watch), SB 2018 (support), SB 2024 (support), SB 2025 (support), SB 2027(watch), SB 2059 (watch). (Possible Action)

Mr. Hopwood reported on this item.

MOTION: Mr. Hopwood/Dr. Chen moved to change position on SB1244, from Support to Watch.

VOTE: 8-0, motion carried.

MOTION: Mr. Foley/Dr. Chen moved to give authority to Chair Hopwood, Ms. Christenson, and Ms. Arnold to Support SB1955 once it is amended.

VOTE: 8-0, motion carried.

MOTION: Mr. Foley/Dr. Chen moved to give authority to Chair Hopwood, Ms. Christenson, and Ms. Arnold to Support SB2026 once it is amended.

VOTE: 8-0, motion carried.

b. Status of Regulations.

Ms. Christenson reported that the following regulations will be discussed/reviewed in 2002:

- Five Year Credit for ABET Masters Degree
- ABET Approval of Foreign Degrees
- LSIT experience requirements
- Temporary Authorization Review Panel
- Delinquent Reinstatement Requirements

Ms. Thompson reported on Regulation 407 (Fee Restructure). The Board adopted final language and original rulemaking file was submitted to DCA. It will then go to DOF and OAL.

Friday, July 26, 2002

Board Members Present: Millicent Safran (President), Gregg Brandow (Vice-President), David Chen, Arthur Duffy, James Foley, David Fruchtman, Andrew Hopwood, Stephen Lazarian, Michael Welch, and Dale Wilson.

Board Members Absent: Kathryn Hoffman

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Nancy Eissler (Attorney General Liaison Analyst), Cindy Morris-Hoppe (Executive Analyst), Debbie Thompson (Budget Analyst).

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order at 9:45 a.m. Roll call was taken, and a quorum was established.

2. Public Comment

Mr. Foley spoke regarding issues Mr. Greenlaw had raised in previous comments.

Mr. Greenlaw responded to Mr. Foley's comments.

7. Comity and Temporary Authorization Applications (Possible Action)

Said Naguib Guirguis addressed the Board regarding his Temporary Authorization application to provide civil engineering services.

Vice-President Brandow, Mr. Foley, and Mr. Duffy interviewed Mr. Guirguis.

MOTION: Mr. Foley/Mr. Hopwood moved to grant Mr. Guirguis's application for a 180-day Temporary Authorization.

VOTE: 10-0, motion carried.

12. Enforcement

a. Enforcement Program Update

1. Enforcement Outreach Program

Ms. Eissler reported on the information contained in the agenda packet.

2. Status of Rulemaking Proposal to Amend Board Rule 404 (Definitions)

Ms. Eissler advised the Board that the written and oral comments received during the written comment period and at the hearing held that morning would be reviewed by the Board's attorneys and staff and a summary of the comments and any recommendations would be presented to the Board at either the September or October meeting.

b. Approval to Begin the Rulemaking Process to Amend Board Rules 404.1 and 404.2 (Definitions of Responsible Charge) (Possible Action)

Ms. Eissler reviewed the information contained in the agenda packet and recommended to the Board that the draft language be referred to all of the TACs for review and input before the Board discusses or takes action on this item. The Board directed that this be done.

c. Approval of Amendments to Proposed Board Rules 475 and 476 (Codes of Professional Conduct) (Possible Action)

Ms. Eissler reviewed the information contained in the agenda packet. She advised the Board that any changes to the language as originally noticed would require a 15-day noticed public comment period, after which a summary of any comments received would be presented to the Board before the Board could take final action to adopt the language.

After much discussion, including input from the Board's attorneys, staff, and members of the public, the following motions were made:

MOTION: Mr. Foley/Mr. Fruchtmann moved to delete subdivision (d) regarding copyright infringement and to direct staff to develop language based on subdivision (c)(8) to address that licensees shall properly attribute credit to others but shall not misuse the work of others; this language is to be presented to the Board for approval before the 15-day public comment period is noticed.

VOTE: 10-0; motion carried.

MOTION: Mr. Foley/Mr. Duffy moved to make no changes to subdivision (a) and to make the changes as described below. All changes are to be presented to the Board for approval before the 15-day public comment period is noticed.

- Include a statement of intent/sole purpose in the opening paragraph similar to the statement included in the proposed definitions of negligence and incompetence.

- Mr. Lazarian will provide staff with language from the Civil Code regarding preliminary notice of lien rights and property owners so that staff and the Board's attorneys can include similar language in subdivision (b)(1) in place of the phrase "project owners."
- Change subdivision (b)(2) to say "any" rather than "a" but leave "may influence."
- Change subdivisions (c)(4) and (c)(7) as recommended in the agenda packet.
- Include the phrase "or by order of the court" in subdivision (e)(1).
- Either add a new subdivision to (e) which would read "disclosures made in an adjudicatory proceeding."

VOTE: 9-1; motion carried; Mr. Fruchtmann – nay.

13. Technical Advisory Committee Reports (Possible Action)

a. Land Surveying (no meeting)

No report given.

b. Civil (no meeting)

No report given.

c. Geotechnical (no meeting)

No report given.

d. Structural Engineering (no meeting)

No report given.

e. Mechanical (no meeting)

No report given.

f. Electrical Engineering (no meeting)

No report given.

g. Board Assignments to TAC's (Possible Action)

President Safran explained that this would be a new item on all future Board agendas so that the Board could assign items to the TACs for discussion.

President Safran assigned all of the TACs to review the draft language regarding the proposed changes to the definition of responsible charge. She directed staff to provide the language to all of the TAC staff liaisons so that the language can be included in the agendas for the upcoming TAC meetings.

14. Liaison Reports (Possible Action)

a. ABET

Mr. Hopwood reported on this item and asked the Board Members to volunteer to visit the different universities.

President Safran requested that Mr. Hopwood send the schedule of visits to all Board Members.

b. NCEES

1. Strategic Plan

Ms. Christenson reported that the NCEES Strategic Plan would be discussed at the Annual Meeting and that NCEES had requested that all member boards review the information prior to the Annual Meeting.

2. Annual Meeting, August 7-10, 2002

President Safran reported on this item. She advised that the Annual Meeting would be held in La Jolla, California, and encouraged all Board members to attend.

c. Technical and Professional Societies

No report given.

15. President's Report

President Safran requested that all Emeritus Board Members receive the Board agenda mailings.

16. Executive Officer's Report

1. Administration Report

a. Executive summary report

Ms. Christenson reported on this item.

2. Personnel

a. Hiring freeze

No report given.

b. Vacancies

No report given.

3. Enforcement/Examination/Licensing

a. College Outreach

No report given.

4. Publications/Website

a. Website activity

b. Bulletin

Ms. Christenson reported that, due to the hiring freeze, we do not have the staffing resources to publish the Bulletin.

5. Other

a. DCA update

Ms. Christenson reported that the Title Act Study was due to DCA on July 31, 2002, and is due to be submitted to the Legislature on September 1, 2002.

17. Approval of Board Travel (Possible Action)

No Board travel.

18. Other Items Not Requiring Board Action

- a.** Next Board meeting: September 5 & 6, 2002, DoubleTree Hotel, Monterey, California.

19. Adjourn

The Board adjourned at 12:25 p.m.

PUBLIC PRESENT

Tom Stout
George Shambeck, representing CLSA
Charles Greenlaw, SE
Eugene Weatherby, representing CELSOC
Will H. Lindsay
Carlos E. Cadena
Buzz Spellman, CEG 154
Said Guiravis, Bartnel Inc.
Elisa Sue, CPIL